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Agenda item 107

Review of the efficiency of the administrative and financial functioning of the United Nations

Report of the Fifth Committee

Rapporteur: Mrs. Denisa **Hutanova** (Slovakia)

I. Introduction

1. The previous recommendations made by the Fifth Committee to the General Assembly under agenda item 107 appear in the report of the Committee contained in document A/59/652.

2. The Fifth Committee resumed its consideration of the item at its 34th, 42nd and 43rd meetings, on 7 March and 1 and 6 April 2005. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/59/SR.34, 42 and 43).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Advisory Committee on Administrative and Budgetary Questions on procurement reform: outsourcing practices (A/59/540, paras. 1-13);

(b) Note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on the audit of safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions (A/59/347);

(c) Report of the Secretary-General on outsourcing practices (A/59/227);

(d) Report of the Secretary-General on procurement reform (A/59/216);

(e) Note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on strengthening the investigation functions in the United Nations (A/58/708);

(f) Note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on the audit of the functioning of the Headquarters Committee on Contracts (A/58/294).

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II. Consideration of proposals

A. Draft resolution A/C.5/59/L.40

4. At the 42nd meeting, on 1 April, the Committee had before it a draft resolution entitled "Report of the Office of Internal Oversight Services on strengthening the investigation functions in the United Nations" (A/C.5/59/L.40), which was submitted by the representative of Slovakia, Rapporteur of the Committee, on the basis of informal consultations.

5. At the same meeting, the Committee adopted draft resolution A/C.5/59/L.40 without a vote (see para. 16, draft resolution I).

B. Draft resolution A/C.5/59/L.44

6. Also at the 42nd meeting, the Committee had before it a draft resolution entitled "Procurement reform" (A/C.5/59/L.44), which was submitted by the representative of Uganda, on behalf of the Chairman, on the basis of informal consultations.

7. At the same meeting, the Secretary of the Committee pointed out corrections to be made to operative paragraph 18 of section A of the draft resolution, by replacing the words "governing procurement processes" with the words "governing the procurement process", and to operative paragraph 7 of section B, by replacing the word "including" with the word "and".

8. At the same meeting, the representative of the Russian Federation orally corrected operative paragraph 3 of section B of the draft resolution by replacing the words "of the United Nations air operations" with the words "when providing air services to the United Nations".

9. At the same meeting, the Committee adopted draft resolution A/C.5/59/L.44, as orally corrected, without a vote (see para. 16, draft resolution II).

10. After the adoption of the draft resolution, the representatives of Argentina (on behalf of the States Members of the United Nations that are members of the Rio Group) and Nigeria (on behalf of the States Members of the United Nations that are members of the African Group) made statements in explanation of position.

C. Draft resolution A/C.5/59/L.45

11. At the 42nd meeting, the Committee had before it a draft resolution entitled "Outsourcing practices" (A/C.5/59/L.45), which was submitted by the representative of Uganda, on behalf of the Chairman, on the basis of informal consultations.

12. At the same meeting, the Committee adopted draft resolution A/C.5/59/L.45 without a vote (see para. 16, draft resolution III).

D. Draft decision A/C.5/59/L.43

13. At the 43rd meeting, on 6 April, the Committee had before it a draft decision entitled "Questions deferred for future consideration" (A/C.5/59/L.43), which was submitted by the Chairman.

14. At the same meeting, the Secretary of the Committee pointed out corrections to be made to the draft decision by the deletion of the following text:

"*Item 120*

Administration of justice at the United Nations

"(n) Note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on the management review of the appeals process at the United Nations including measures to shorten the period required for the disposal of cases and procedures and functions related to the Joint Appeals Board, the Panel of Counsel, the Administrative Law Unit and the secretariats of the Joint Appeals Board and the Joint Disciplinary Committee (A/59/408);

"(o) Report of the Secretary-General on the administration of justice in the Secretariat (A/59/449);

"(p) Report of the Secretary-General on the administration of justice in the Secretariat: role of the Panels on Discrimination and Other Grievances (A/59/414);

"(q) Report of the Secretary-General on the administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2001 and 2002 (A/58/300);

"(r) Report of the Secretary-General on the administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2002 and 2003 (A/59/70);

"(s) Comprehensive report of the United Nations Administrative Tribunal on its activities (A/58/680);

"(t) Letter dated 18 November 2003 from the President of the United Nations Administrative Tribunal to the Chairman of the Fifth Committee (A/C.5/58/16);

"(u) Note by the Secretary-General transmitting the report of the Joint Inspection Unit entitled 'Administration of justice: harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal' (A/59/280 and Corr.1);

"(v) Note by the Secretary-General transmitting his comments on the report of the Joint Inspection Unit entitled 'Administration of justice: harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal' (A/59/280/Add.1);

"(w) Report of the Secretary-General on the possibility of the financial independence of the United Nations Administrative Tribunal from the Office of Legal Affairs (A/59/78);

"(x) Note by the Secretary-General on compensation for officials other than Secretariat officials: members of the United Nations Administrative Tribunal (A/C.5/59/12);

"(y) Report of the Secretary-General on measures to prevent discrimination on the basis of nationality, race, gender, religion or language in the United Nations (A/59/211);

"(z) Interim report of the Advisory Committee on Administrative and Budgetary Questions on the administration of justice in the Secretariat (A/59/715)."

15. At the same meeting, the Committee adopted draft decision A/C.5/59/L.43, as orally revised, without a vote (see para. 17).

III. Recommendation of the Fifth Committee

16. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the Office of Internal Oversight Services on strengthening the investigation functions in the United Nations

The General Assembly,

Recalling its resolutions 48/218 B of 29 July 1994, 54/244 of 23 December 1999 and 59/272 of 23 December 2004, establishing the Office of Internal Oversight Services and its operational independence,

Recalling also its resolutions 57/282 of 20 December 2002 and 58/268 of 23 December 2003,

Having considered the report of the Office of Internal Oversight Services on strengthening the investigation functions in the United Nations,[1]

Noting that independent investigation is in the best interests of the Organization,

Noting also that violations of the United Nations Financial and Staff Rules and Regulations and administrative instructions are considered misconduct and call for disciplinary action,

1. *Takes note* of the report of the Office of Internal Oversight Services on strengthening the investigation functions in the United Nations;[1]

2. *Re-emphasizes* the principle of separation, impartiality and fairness on the part of those with responsibility for investigation functions;

3. *Re-emphasizes also* that the Office of Internal Oversight Services is the internal body entrusted with investigation in the United Nations;

4. *Notes* the need to enhance the capacity of the Office of Internal Oversight Services to conduct its mandated investigation functions efficiently;

5. *Recognizes* that the Office of Internal Oversight Services has established an efficient mechanism to enable all staff members and other persons engaged in activities under the authority of the Organization to convey directly their allegations to the Office of Internal Oversight Services;

6. *Stresses* that sexual exploitation and abuse constitute serious misconduct and fall under category I;[2]

7. *Notes* that sexual harassment constitutes a serious concern to Member States, and, bearing in mind paragraph 12 of the present resolution, notes that the Office of Human Resources Management and programme managers may be entrusted to conduct investigations in this context;

[1] See A/58/708.

[2] See A/58/708, para. 26.

8. *Decides* that the Office of Internal Oversight Services may entrust trained programme managers to conduct investigations on its behalf;

9. *Also decides* that in cases of serious misconduct and/or criminal behaviour, investigations should be conducted by professional investigators;

10. *Requests* the Secretary-General to implement the proposals of the Office of Internal Oversight Services to increase basic investigation training, as appropriate, for the handling of minor forms of misconduct, to develop written procedures for the proper conduct of investigations and to promote the concept of an independent investigation function within the United Nations;

11. *Decides* that the results of investigation conducted by programme managers should be reported to the Office of Internal Oversight Services;

12. *Requests* the Secretary-General to establish an administrative mechanism for the mandatory reporting by programme managers of allegations of misconduct to the Office of Internal Oversight Services and to report on the establishment of such a mechanism to the General Assembly at the resumed part of its sixtieth session;

13. *Also requests* the Secretary-General to ensure that the introduction of a mandatory reporting mechanism will not adversely affect the right of an individual staff member to report cases of allegations of misconduct directly to the Office of Internal Oversight Services;

14. *Further requests* the Secretary-General to ensure that where poor management practice is a contributory factor in cases of misconduct, appropriate managerial action is taken by the Office of Human Resources Management;

15. *Requests* the Secretary-General to ensure that an appropriate mechanism is in place to protect staff members who report misconduct within the Secretariat against retaliation;

16. *Also requests* the Secretary-General to ensure that, in case of proven misconduct and/or criminal behaviour, disciplinary action and, where appropriate, legal action in accordance with the established procedures and regulations will be taken expeditiously, and requests the Secretary-General to ensure that Member States are informed on an annual basis about all actions taken;

17. *Further requests* the Secretary-General to ensure that all staff of the Organization are informed of the most common examples of misconduct and/or criminal behaviour and their disciplinary consequences, including any legal action, with due regard to the protection of the privacy of the staff member(s) concerned;

18. *Requests* the Secretary-General to ensure that when conclusions of the Office of Internal Oversight Services are disputed by a programme manager, appropriate action will be taken to resolve the dispute and that information thereon will be included in the annual report of the Office of Internal Oversight Services.

Draft resolution II
Procurement reform

The General Assembly,

Recalling its resolutions 54/14 of 29 October 1999, 55/247 of 12 April 2001 and 57/279 of 20 December 2002,

Having considered the report of the Secretary-General on procurement reform[1] the related report of the Advisory Committee on Administrative and Budgetary Questions[2] and the reports of the Office of Internal Oversight Services on the audit of safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions[3] and on the audit of the functioning of the Headquarters Committee on Contracts,[4]

A
Report of the Secretary-General on procurement reform

1. *Takes note* of the report of the Secretary-General on procurement reform[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions;[2]

2. *Welcomes* the progress achieved in addressing the concerns expressed in its resolution 57/279 and the recent significant improvements made by the Secretary-General in procurement reform at Headquarters and in the field missions;

3. *Notes with appreciation* the progress achieved in the harmonization and streamlining of procurement practices;

4. *Calls upon* the executive heads of the funds and programmes of the United Nations to continue their efforts with a view to improving the efficiency of procurement by reducing duplication and harmonizing the procurement procedures in the United Nations system as a whole, in close cooperation with the Procurement Service of the Office of Central Support Services of the United Nations Secretariat;

5. *Requests* the Secretary-General to encourage all the organizations of the United Nations system, consistent with their respective mandates, to further improve their procurement practices, inter alia, by participating in the United Nations Global Marketplace with a view to creating one common United Nations global procurement web site;

6. *Notes* the activities of the Inter-Agency Procurement Working Group and of the Common Services Procurement Working Group on enhancing the transparency and increasing the harmonization of procurement practices, and requests the Secretary-General, in consultation with the executive heads of the United Nations funds and programmes, to continue their work in this regard;

7. *Requests* the Secretary-General to continue to simplify and streamline the registration process for vendors and to share responsibilities among the various United Nations organizations;

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[1] A/59/216.
[2] A/59/540, paras. 1–11.
[3] See A/59/347.
[4] See A/58/294.

8. *Notes* the efforts made by the Secretary-General to increase procurement opportunities for developing countries and countries with economies in transition, and requests the Secretary-General to:

(a) Continue to simplify the vendor registration process, taking into account access to the Internet;

(b) Take further steps to sensitize the business community to procurement opportunities within the United nations system, including:

(i) The holding of additional business seminars;

(ii) Inviting the Inter-Agency Procurement Working Group to hold more meetings in developing countries;

(iii) Including the issue of "Diversity of sources of procurement" as an agenda item at the annual meetings of the Inter-Agency Procurement Working Group;

9. *Notes also* the recent introduction of the principle of best value for money in relation to procurement, and requests the Secretary-General, when applying this principle, to continue safeguarding the financial interests of the Organization, consider best practices and ensure that adequate records are kept;

10. *Requests* the Secretary-General to submit to the General Assembly an overview and general analysis of the functioning of the principle of best value for money, within the framework of his regular reporting on procurement reform;

11. *Also requests* the Secretary-General to implement measures to reduce the time line associated with invoice payment;

12. *Further requests* the Secretary-General to issue ethical guidelines without delay for those involved in the procurement process, requests that those guidelines be shared with Member States through the procurement web site, and reiterates its request to the Secretary-General for the early adoption of a code of conduct for vendors and a declaration of ethical responsibilities for all staff involved in the procurement process;

13. *Encourages* the Inter-Agency Procurement Working Group to continue its efforts to produce comprehensive and generally applicable statistics encompassing the procurement activities of all United Nations entities;

14. *Welcomes* the training programmes for United Nations procurement staff that the Procurement Service has initiated, including in the field, and requests the Secretary-General to support these programmes and to evaluate and monitor their impact;

15. *Notes* the promotion by the Procurement Service of the voluntary principles of the corporate social responsibility initiative, the Global Compact, into the United Nations procurement framework, and requests the Secretary-General, as appropriate, to report to the General Assembly for further consideration;

16. *Requests* the Secretary-General, taking into account the comments and observations of the Board of Auditors and the Office of Internal Oversight Services, to ensure that information regarding the accountability factor within the procurement reform framework is provided in the next report of the Secretary-General on procurement;

17. *Also requests* the Secretary-General to continue to ensure that consistent non-compliance and poor performance by vendors is recorded and that appropriate action is taken with respect to their inclusion on the list of vendors;

18. *Takes note* of the agreements made with major companies, and urges the Secretary-General to continue to ensure adherence to the rules and procedures governing the procurement process and to enable more active participation by all vendors;

19. *Notes* the increase in the number of ex post facto cases, and requests the Secretary-General to continue to take appropriate actions in order to minimize that practice to those cases which fully comply with the criteria of exigency;

20. *Requests* the Secretary-General, in his next report on procurement reform, to provide information on the implementation of the new delegations of authority, including mechanisms used to strengthen effective monitoring, oversight and accountability;

21. *Notes* the Secretary-General's plan to provide purchasing cards to departments and offices for the procurement of low-value items, and requests the Secretariat to develop strong internal control mechanisms that will safeguard against misuse, after consulting with the Office of Internal Oversight Services and outside organizations experienced in administering purchase card programmes.

B

Report of the Office of Internal Oversight Services on the audit of safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions

1. *Takes note* of the report of the Office of Internal Oversight Services on the audit of safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions;[1]

2. *Requests* the Secretary-General, as recommended in the report of the Office of Internal Oversight Services on the audit of safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions, to fully document the reasons for not following up on the recovery of liquidated damages for contracts and apply consistent methods to the collection of liquidated damages from vendors;

3. *Also requests* the Secretary-General to continue to ensure compliance with the standards and recommended practices of the International Civil Aviation Organization within the framework of the Department of Peacekeeping Operations policy regarding the chartering of civilian registered aircraft, with the objective of ensuring the highest level of air safety when providing air services to the United Nations;

4. *Notes with concern* the delay and difficulties experienced in recruiting and appointing aviation safety officers in some peacekeeping operations, and requests the Secretary-General to take all necessary measures to fill the vacancies expeditiously;

5. *Requests* the Secretary-General, in view of the limited number of site visits by aviation experts to operational bases of air carriers, to ensure that experts are able to conduct the necessary technical assessment of vendors;

6. *Notes with concern* that occurrences attributed to specific vendors were not included in the vendor performance reports, and requests the Secretary-General to take all necessary measures to ensure that such occurrences are reflected in the appropriate vendor performance report;

7. *Requests* the Secretary-General to ensure that the Department of Peacekeeping Operations communicates the information on vendor performance to all aviation offices involved and the Procurement Service.

C

Report of the Office of Internal Oversight Services on the audit of the functioning of the Headquarters Committee on Contracts

1. *Takes note* of the report of the Office of Internal Oversight Services on the audit of the functioning of the Headquarters Committee on Contracts;[4]

2. *Requests* the Secretary General to review without delay options to better safeguard the independence of the Headquarters Committee on Contracts, including the option identified in recommendation 1[5] of the report of the Office of Internal Oversight Services on the audit of the functioning of the Headquarters Committee on Contracts;

3. *Also requests* the Secretary-General to examine the appropriateness of the current threshold for the Headquarters Committee on Contracts review of procurement cases with a view to improving the effectiveness and efficiency of the functioning of the Committee, taking into account the development of the delegation of authority to the field offices as described in paragraph 11 of the report of the Advisory Committee on Administrative and Budgetary Questions,[6] and to report on action taken to the General Assembly in the context of the next report of the Secretary-General on procurement.

[4] A/58/294, para. 29.
[5] A/59/540.

Draft resolution III
Outsourcing practices

The General Assembly,

Recalling its resolutions 54/256 of 7 April 2000, 55/232 of 23 December 2000 and 58/276 and 58/277 of 23 December 2003,

Having considered the report of the Secretary-General on outsourcing practices[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

1. *Takes note* of the report of the Secretary-General on outsourcing practices,[1] and endorses the observations and recommendations of the Advisory Committee on Administrative and Budgetary Questions related thereto;[2]

2. *Acknowledges* that outsourcing should be used in full compliance with the four criteria set out by the General Assembly, and requests the Secretary-General to monitor the quality of activities outsourced;

3. *Requests* the Secretary-General to continue to consider outsourcing actively in accordance with the guidance and goals mentioned in paragraphs 1 to 3 of General Assembly resolution 55/232 and to ensure that programme managers satisfy all of the following criteria in their assessment of whether or not an activity of the Organization could be fully, or even partially, outsourced:

(a) Cost-effectiveness and efficiency: this is considered to be the most basic criterion; unless it can be adequately demonstrated that an activity can be done significantly more economically and, at the very least, equally efficiently, by an external party, outsourcing may not be considered;

(b) Safety and security: activities that could compromise the safety and security of delegations, staff and visitors may not be considered for outsourcing;

(c) Maintaining the international character of the Organization: outsourcing may be considered for activities in which the international character of the Organization is not compromised;

(d) Maintaining the integrity of procedures and processes: outsourcing may not be considered if it will result in any breach of established procedures and processes.

[1] A/59/227.

[2] A/59/540, paras. 1, 12 and 13.

17. The Fifth Committee recommends to the General Assembly the adoption of the following draft decision:

Questions deferred for future consideration

The General Assembly decides to defer for future consideration the following agenda items and related documents:

Item 108
Programme budget for the biennium 2004-2005

(a) Second annual report of the Secretary-General on the implementation of the capital master plan (A/59/441);

(b) Report of the Secretary-General on the plans for three additional conference rooms and viable solutions for allowing natural light into the rooms (A/58/556);

(c) Report of the Secretary-General on viable options for ensuring sufficient parking space at United Nations Headquarters (A/58/712);

(d) Report of the Secretary-General on the status of possible funding arrangements for the capital master plan (A/58/729);

(e) Report of the Secretary-General on the cooperation with the city and State of New York related to the capital master plan (A/58/779);

(f) Note by the Secretary-General transmitting the report of the Board of Auditors on the capital master plan for the biennium ended 31 December 2003 (A/59/161);

(g) Note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on the United Nations capital master plan for the period from August 2003 through July 2004 (A/59/420);

(h) Report of the Advisory Committee on Administrative and Budgetary Questions on the capital master plan (A/59/556);

Item 113
Scale of assessments for the apportionment of the expenses of the United Nations

(i) Letter dated 27 December 2001 from the Secretary-General to the President of the General Assembly (A/56/767);

(j) Note by the Secretary-General on the outstanding assessed contributions of the former Yugoslavia (A/58/189);

Item 116
United Nations common system

(k) Report of the International Civil Service Commission for 2004: comments of the International Civil Service Commission on the report of the Panel on the Strengthening of the International Civil Service (A/59/30, vol. II);

(l) Note by the Secretariat transmitting the report of the Panel on the Strengthening of the International Civil Service (A/59/153);

(m) Note by the Secretary-General on the report of the Panel on the Strengthening of the International Civil Service (A/59/399).